

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

01 MAY -9 AM 11:01

**JODY JOHNSON, JESSICA HECKARD,
a minor, and JUSTIN HECKARD, a minor,
by and through JODY JOHNSON, their mother
and next friend, LAMOND ALEXANDER,
RAYMOND MCGAHA, ROBERT WARD,
and ROSSLEE MACKEY, SR., on behalf of themselves
and all persons similarly situated,**

Plaintiffs,

vs.

NO. CIV 99-00348 MV/WWD-ACE

**CITY OF HOBBS, a municipality, WILLIAM
MORRILL, TONY KNOTT, DANNY CARTER,
JAMES MURPHY, D.L. KELLEY, MARK RHOADS,
MATT RHOADS, SEAN BATES, MARK CONGER,
BOB COOLEY, MARK HERRERA, CHRIS LYLE,
KENNETH RAGLAND, MARK FRITTS, PETE FARMER,
ROBERT WATTS, ROBERT WEAVER, DON GRAHAM,
MICHAEL MANN, LAURA WALL, JEFF WORTH,
ORIN TUBBS, DUSTY WILSON, GEORGE RIVERA,
COREY HELTON, STAN DURHAM, MICHAEL RICHARDSON,
RANDY PELL, DAVID LESTER, PAUL J. CAMPOS,
STEVEN DARRIK LASATER, Individually and in their official capacities,**

Defendants.

**JOINT MOTION FOR APPROVAL OF NOTICE TO CLASS
AS REQUIRED BY RULE 23(e)**

Plaintiffs and Defendants in this case have reached a settlement of all claims, both as to the individually named Plaintiffs and as to the class of all African-American residents of Hobbs, New Mexico. The parties have agree that all the requirements for a class under Rule 23 (a) and (b)(2) of the Federal Rules of Civil Procedure have been satisfied and that this action is properly certified as a class action for purposes of the requested injunctive

relief. The class is defined as all African-American residents of Hobbs, New Mexico. There are more than 2,000 members of the class and it is so numerous that joinder of all members is impracticable. There are questions of law and fact common to the class, the claims of the named Plaintiffs are typical of the claims of the class, and the named Plaintiffs will fairly and adequately protect the interests of the class. Plaintiffs and Defendants have agreed to the injunctive relief set forth in the Stipulated Agreement, attached hereto as Exhibit C, and desire to implement this Stipulated Agreement for the benefit of the class in this case. The class did not seek and will not receive monetary damages.

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, a class action may not be settled without the approval of the Court and notice of the proposed settlement "shall be given to all members of the class in such manner as the court directs." The Court has scheduled a hearing on June 8, 2001 to determine whether to approve this proposed settlement of the class action. Plaintiffs and Defendants hereby move this Court for an Order approving the following reasonable and adequate method of notifying the members of the class about the proposed Stipulated Agreement:

1. Defendants will arrange for the Notice to Class Members, attached hereto as Exhibit A, to be prominently published **daily** in the Hobbs News Sun, the major newspaper in Hobbs (published every Tuesday through Sunday), from **May 9 through May 27, 2001** (a total of 17 days).

2. On or before May 13, 2001, Plaintiffs will provide for announcement and posting a copy of the Explanation of Proposed Settlement, attached hereto as Exhibit B, and a copy of the Stipulated Agreement, attached hereto as Exhibit C, to at least 10 churches in Hobbs, New Mexico: those whose congregation is predominantly comprised of African

American residents and those whose congregation is mixed Hispanic and African-American residents.

3. On or before May 9, 2001, Defendants will arrange for at least five (5) copies of the Explanation of Proposed Settlement, attached hereto as Exhibit B, and at least five (5) copies of the Stipulated Agreement, attached hereto as Exhibit C, to be posted and available for review at **each** of the following locations in Hobbs, New Mexico: the City Hall and the Public Library.

4. As set forth in Exhibits A and B, attached hereto, members of the Plaintiff-class will be informed about the substance of the Stipulated Agreement and given the opportunity to state their objections by attending the hearing on June 8, 2001 at 1:30 p.m. in the Federal Courthouse in Santa Fe.

5. The method of notifying class members set forth above has been determined by Plaintiffs and Defendants, after consultation with knowledgeable people in Hobbs, to be an appropriate and reasonably effective method of notifying the over 2,000 members of the class residing in Hobbs about the Stipulated Agreement.

6. After the Court has had the opportunity to review the proposed Stipulated Agreement, hear any objections from class members and hear argument from the parties at the hearing on June 8, she will be able to decide whether to approve the settlement of this case.

Wherefore, Plaintiffs and Defendants request that the method of notifying class members set forth herein be approved by this Court.

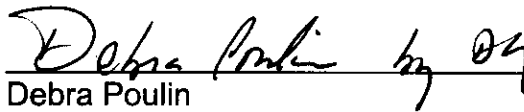
Respectfully submitted,



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Attorneys for Plaintiffs

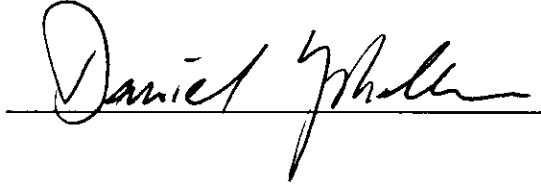


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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2001, a true copy of the foregoing Joint Motion for Approval of Notice to Class As Required by Rule 23(e) was served on Greg Biehler, Esq., 6715 Academy Rd. NE, Albuquerque, NM 87109 by first-class U.S. mail, postage prepaid.

A handwritten signature in black ink, appearing to read "Daniel Biehler", is written over a horizontal line.

THE EXHIBITS ATTACHED TO THIS
PLEADING ARE TOO VOLUMINOUS TO
SCAN. SAID EXHIBITS ARE ATTACHED
TO THE ORIGINAL PLEADING IN THE
CASE FILE WHICH IS LOCATED IN THE
RECORDS DEPARTMENT, U.S.
DISTRICT COURT CLERK'S OFFICE.